

WILSON ELSE MOSKOWITZ EDELMAN & DICKER LLP

Attorneys for Defendant

FJC SECURITY SERVICES, INC.

Office and P.O. Address

1133 Westchester Avenue

White Plains, New York 10604

(914) 323-7000

File No.: 20147.00291

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
KOREY WATSON,

: Case No.: 23-cv-8975 (LDH)

Plaintiff,

-against-

: **DEFENDANT’S ANSWER TO THE
AMENDED COMPLAINT WITH
AFFIRMATIVE DEFENSES**

THE CITY OF NEW YORK, FJC SECURITY
SERVICES, INC., SABRINA DUNCAN, ASHLEY :
JOHNSON, KERN PROBHERBS, NATASIA LYLES,
TAMIKA JENKINS, PATRICIA ROBINSON and :
SEAN WILLIAMS,

Defendants.

-----X

ANSWER OF DEFENDANTS WITH AFFIRMATIVE DEFENSES

Defendants FJC SECURITY SERVICES, INC., ASHLEY JOHNSON, NATASIA
LYLES, TAMIKA JENKINS, PATRICIA ROBINSON and SEAN WILLIAMS (hereinafter the
“Answering Defendants”), by their attorneys, Wilson Elser Moskowitz Edelman & Dicker LLP,
respectfully answers the Complaint of the Plaintiff, as follows:

JURISDICITON AND PARTIES

1. The Answering Defendants neither admit nor deny the allegations contained in
paragraph “1” of the Complaint and respectfully refer all questions of law to this honorable
Court at the time of trial for their true meaning, interpretation and legal effect.

2. The Answering Defendants neither admit nor deny the allegations contained in paragraph “2” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

VENUE

3. The Answering Defendants neither admit nor deny the allegations contained in paragraph “3” of the Complaint as the statement does not require a response, and if a response is required, respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

PARTIES

4. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “4” of the Complaint.

5. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “5” of the Complaint.

6. The Answering Defendants admit that it a corporation organized and existing under and by virtue of the laws of the State of New York. The Answering Defendants otherwise deny the allegations contained in paragraph “6” of the Complaint.

7. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “7” of the Complaint.

8. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “8” of the Complaint.

9. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “9” of the Complaint.

10. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “10” of the Complaint.

11. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “11” of the Complaint.

12. The Answering Defendants deny the allegations contained in paragraph “12” of the Complaint.

13. The Answering Defendants deny the allegations contained in paragraph “13” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

14. The Answering Defendants deny the allegations contained in paragraph “14” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

15. The Answering Defendants deny the allegations contained in paragraph “15” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

GENERAL MUNICIPAL LAW COMPLIANCE

16. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “16” of the Complaint.

17. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “17” of the Complaint.

18. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “18” of the Complaint.

19. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “19” of the Complaint.

STATEMENT OF FACTS

Background

20. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “20” of the Complaint.

21. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “21” of the Complaint.

22. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “22” of the Complaint.

23. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “23” of the Complaint.

24. The Answering Defendants, upon information and belief, deny the allegations contained in the paragraph designated as “24” of the Complaint.

25. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “25” of the Complaint.

26. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “26” of the Complaint.

27. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “27” of the Complaint.

28. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “28” of the Complaint.

29. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “29” of the Complaint.

30. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “30” of the Complaint.

31. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “31” of the Complaint.

32. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “32” of the Complaint.

33. The Answering Defendants, upon information and belief, denies the allegations contained in the paragraph designated as “33” of the Complaint.

34. The Answering Defendants, upon information and belief, denies the allegations contained in the paragraph designated as “34” of the Complaint.

35. The Answering Defendants, upon information and belief, denies the allegations contained in the paragraph designated as “35” of the Complaint.

36. The Answering Defendants, upon information and belief, denies the allegations contained in the paragraph designated as “36” of the Complaint.

37. The Answering Defendants, upon information and belief, denies the allegations contained in the paragraph designated as “37” of the Complaint.

38. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “38” of the Complaint.

39. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “39” of the Complaint.

40. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “40” of the Complaint.

41. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “41” of the Complaint.

FIRST CLAIM FOR RELIEF

For Negligence Under New York Common Law

42. The Answering Defendants repeats and reiterates each and every denial and response to the paragraphs designated “1” through “41” of the Complaint as they pertain to paragraph designated “42” of the Complaint.

43. The Answering Defendants deny the allegations contained in paragraph “43” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

44. The Answering Defendants deny the allegations contained in paragraph “44” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

45. The Answering Defendants deny the allegations contained in paragraph “45” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

46. The Answering Defendants deny the allegations contained in paragraph “46” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

SECOND CLAIM FOR RELIEF

**Due Process Against Defendant City and the Doe Defendants
*Pursuant to 42 U.S.C. § 1983 for Defendants' Violations of Plaintiff's Rights Protected Under
the Fifth and Fourteenth Amendments to the United States Constitution***

47. The Answering Defendants repeats and reiterates each and every denial and response to the paragraphs designated “42” through “46” of the Complaint as they pertain to paragraph designated “47” of the Complaint.

48. The Answering Defendants deny the allegations contained in paragraph “48” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

49. The Answering Defendants deny the allegations contained in paragraph “49” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

50. The Answering Defendants deny the allegations contained in paragraph “50” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

51. The Answering Defendants deny the allegations contained in paragraph “51” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

52. The Answering Defendants deny the allegations contained in paragraph “52” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

53. The Answering Defendants deny the allegations contained in paragraph “53” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

THIRD CLAIM FOR RELIEF

**Municipal Liability Against Defendant City of New York
Pursuant to 42 U.S.C. 1983 and *Monell v. Department of Social Services*, 436 U.S. 658 (1978)
for Defendants’ Violations of Plaintiff’s Rights Under the Fifth and Fourteenth Amendments
to the United States Constitution**

54. The Answering Defendants repeats and reiterates each and every denial and response to the paragraphs designated “47” through “53” of the Complaint as they pertain to paragraph designated “54” of the Complaint.

55. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “55” of the Complaint.

56. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “56” of the Complaint.

57. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “57” of the Complaint.

58. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “58” of the Complaint.

59. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “59” of the Complaint.

60. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “60” of the Complaint.

61. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “61” of the Complaint.

62. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “62” of the Complaint.

63. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “63” of the Complaint.

64. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “64” of the Complaint.

65. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “65” of the Complaint.

66. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “66” of the Complaint.

67. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “67” of the Complaint.

68. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “68” of the Complaint.

69. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “69” of the Complaint.

70. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “70” of the Complaint.

71. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “71” of the Complaint.

72. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “72” of the Complaint.

73. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “73” of the Complaint.

74. The Answering Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “74” of the Complaint.

75. The Answering Defendants, upon information and belief, denies the allegations contained in the paragraph designated as “75” of the Complaint.

FOURTH CLAIM FOR RELIEF

Violations of New York State Law Against Defendant City of New York and the Doe Defendants *Pursuant to New York State Common Law and the New York State Constitution*

76. The Answering Defendants repeats and reiterates each and every denial and response to the preceding paragraphs of the Complaint.

a. *Respondeat Superior Liability*

77. The Answering Defendants deny the allegations contained in paragraph “77” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

b. *Violations of New York State Constitution*

78. The Answering Defendants deny the allegations contained in paragraph “78” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

79. The Answering Defendants deny the allegations contained in paragraph “79” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

80. The Answering Defendants deny the allegations contained in paragraph “80” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

81. The Answering Defendants deny the allegations contained in paragraph “81” of the Complaint and respectfully refer all questions of law to this honorable Court at the time of trial for their true meaning, interpretation and legal effect.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

82. The Defendants are entitled to qualified immunity.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

83. Plaintiff has failed to state a claim upon which relief can be granted pursuant to 42 U.S.C. § 1983.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

84. Punitive damages cannot be awarded against the Defendants individually because the Defendants acted, at all times, without malice and did not intentionally, recklessly, or callously violate or disregard any legal, statutory, or Constitutional rights of the Plaintiff. Moreover, punitive damages may not be awarded in a matter brought against a municipality.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

85. Plaintiff is not entitled to attorney’s fees, costs and disbursements because he has failed to allege any cognizable claim against Defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

86. Any injuries suffered by Plaintiff was due to the conduct and acts of Plaintiff, and/or a third party, and were not the result of any action or inaction taken by the Defendants.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

87. Plaintiff has failed to mitigate his damages.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

88. Plaintiff's claims are barred by the doctrine of contributory negligence.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

89. Plaintiff is not entitled to presumed damages.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

90. Plaintiff's instant action is barred by the applicable Statutes of Limitations.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

91. The Complaint fails to state a claim upon which relief can be granted.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

92. Plaintiff's claims are barred for failure to comply with a condition precedent to bringing this action as required by New York State law, including, but not limited to the filing of a timely Notice of Claim.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

93. Plaintiff's claims are barred by lack of personal jurisdiction over the Defendants.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

94. Plaintiff's claims are barred by lack of sufficient process upon the Defendants.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

95. Plaintiff's claims are barred by lack of sufficient service of process upon the Defendants.

DEMAND FOR TRIAL BY JURY

WHEREFORE, Defendants FJC SECURITY SERVICES, INC., ASHLEY JOHNSON, NATASIA LYLES, TAMIKA JENKINS, PATRICIA ROBINSON and SEAN WILLIAMS demands a trial by jury for all claims and issues in this action for which this Defendant is or may be entitled to a jury trial.

WHEREFORE, Defendants FJC SECURITY SERVICES, INC., ASHLEY JOHNSON, NATASIA LYLES, TAMIKA JENKINS, PATRICIA ROBINSON and SEAN WILLIAMS demands judgment in their favor, and that the Complaint be dismissed.

WHEREFORE, Defendants FJC SECURITY SERVICES, INC., ASHLEY JOHNSON, NATASIA LYLES, TAMIKA JENKINS, PATRICIA ROBINSON and SEAN WILLIAMS demands judgment dismissing Plaintiff's Complaint together with costs and disbursements of this action, or, in the alternative, that the relative responsibility of all parties be apportioned, and for such other further relief as this Court deems just and proper.

Dated: White Plains, New York
August 19, 2024

Yours, etc.

WILSON ELSEER MOSKOWITZ EDELMAN & DICKER LLP

/s/ Joseph P. Wodarski

By: Joseph P. Wodarski, Esq. (JW0557)
Attorneys for Defendants,
FJC SECURITY SERVICES, INC., ASHLEY
JOHNSON, NATASIA LYLES, TAMIKA
JENKINS, PATRICIA ROBINSON and SEAN
WILLIAMS
1133 Westchester Avenue
White Plains, New York 10604
Tel. No. (914) 323-7000
Fax No. (914) 323-7001
File No. 20147.00291